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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.  |
|--|-------------|----------------------|---------------------|-------------------|
| 10/718,914   | 11/21/2003  | Gerard Jakuszski     | 09-9540-6520-0000-4 | 2405              |
| 7590   | 10/18/2005  |                      | EXAMINER            |                   |
| Dana Andrew Alden<br>MacLean-Fogg Company<br>1000 Allanson Road<br>Mundelein, IL 60060 |             |                      |                     | SAETHER, FLEMMING |
|  |             | ART UNIT             |                     | PAPER NUMBER      |
|  |             | 3677                 |                     |                   |

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/718,914             | JAKUSZESKI ET AL.   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Flemming Saether       | 3677                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 25 July 2005.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bungarz (US 369,392) in view of Evans (US 3,247,877). Bungarz discloses a U-bolt having a curved portion (a) and ends (a') each including a thread wherein the distance between the ends is shorter than the length of the ends. Bungarz does not disclose the structure of the threads as claimed. Evans discloses a thread structure comprising trilobular shape (see Fig. 6) with a locking structure formed by a first and second locking surfaces (the thread flanks) with a relative angle of 60° and a root surface angled at 6° (column 5, lines 26-31). In operation, the nut thread re-forms as it is threaded onto the thread structure (see Fig. 7). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to form the thread of Bungarz as disclosed in Evans so that the threads would be lock the nut in the tightened positioned and prevent it for backing off and possible failure of the U-bolt. The examiner takes notice that it is well known in the art to provide a washer to a nut and bolt.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bungarz in view of Evans as applied to claim 1 above, and further in view of Downey (US 4,341,497). Modified Bungarz does not disclose a conventional Vee thread.

Downey discloses a conventional Vee thread (23) having a 60° flank angle leading to a thread structure which re-forms a nut thread. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide modified Bungarz with a Vee shaped thread as disclosed in Downey to provide a lead in for the nut. The lead in would insure proper threading prior to the re-form threads so the re-form threads would operate as intended.

Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bungarz in view of Evans as applied to claim 1 above, and further in view of Donovan (US 6,155,761). Modified Bungarz does not disclose a guide thread having a curved thread surface. Donovan discloses a curved thread surface (at 48) formed between a pair of conventional 60° flanks. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide modified Bungarz with a curved shaped thread as disclosed in Donovan to provide a lead in for the nut to ensure that it does not cross-thread. The lead in would insure proper threading prior to the re-form threads so the re-form threads would operate as intended.

Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bungarz in view of Evans as applied to claim 1 above, and further in view of Garver (US 6,062,786). Modified Bungarz does not disclose a curved thread surface. Garver discloses a curved thread surface (Fig 9A) with curved flanks and a plateau thread surface (Fig. 9B) including plateaus that would form a frusto-conical shape (Fig. 9B). At

the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide modified Bungarz with a shaped thread as disclosed in Garver to provide a lead in for the nut to ensure that it does not cross-thread. The lead in would insure proper threading prior to the re-form threads so the re-form threads would operate as intended.

***Response to Remarks***

Applicant argues that there is no motivation for the combination.

In response to applicant's argument based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977). Applicant points out that for 115 years no one has thought to combine the Bungarz with the lobes of Evans however, provides no evidence in support thereof. Indeed, perhaps someone tried that combination but was not granted a patent.

Also in arguing against the combination, the applicant argues that in Evans it is the lobed shank which is rotated in a drilled hole which is counter to the arrangement of Bungarz wherein the shank is held stationary and a nut is rotated thereon. In response, while the examiner agrees with applicant that Evans discloses the shank rotated into a drilled hole, this is disclosed as alternate embodiment (see column 1, line 55). In the

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preferred embodiment the shank is to mate with an internally threaded member (see column 1, first paragraph) and clearly a nut is an example of an internally threaded member. Furthermore, it is a well known equivalent to rotate either the nut or the shank when fastening a nut onto the shank depending upon which is more convenient since the end result would be the same. The examiner disagrees, that it would be pointless to provide the threaded shank of Bungarz with the lobes disclosed in Evans, because the nut being rotated instead of the shank would still lead to the same desirable results.

Applicant further argues that combination with Downey would destroy the intent of the thread structure of Evans since it would not allow the lead screw thread of Evans to displace material. In response, the examiner disagrees because when considering the preferred embodiment Evans, where it is screwed into an internally threaded member as discussed above, there is no requirement that the lead screw threads displace material.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Flemming Saether  
Primary Examiner  
Art Unit 3677